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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/732,953	12/07/2000	Kamilo Feher	A-66944-1/RMA	6787
7590 05/03/2005				
KAMILO FEHER 44685COUNTRY CLUB DRIVE EL MACERO, CA 95618			EXAMINER VO, DON NGUYEN	
			ART UNIT 2631	PAPER NUMBER
DATE MAILED: 05/03/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/732,953

Applicant(s)

FEHER, KAMILO

Examiner

DON N. VO

Art Unit

2631

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12/7/00 & 12/22/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Acknowledgement

1. Applicant is noted that the Preliminary Amendment filed on 12/07/2000 has not been entered because it asked to amend claims 15-21, unchange claims 22-27 and add claims 28-43. However, only a total of 14 claims were originally filed for this application. The discrepancies were notified to the applicant (Mr. Feher (the inventor)) during the conversation on 8/9/2004. Mr. Feher informed the examiner that a second Preliminary Amendment would be filed. On 8/18/2004, the Office received the second Preliminary Amendment. However, the second Preliminary Amendment failed to comply with 37 C.F.R. 1.121 and therefor not entered and the Notice of Non-Compliant Amendment Letter was mailed on 9/23/2004. Applicant was given ONE MONTH from the mailing date of the letter to response and this ONE MONTH time limit is not extendable. Applicant fails to file a response to the Notice of Non-Compliant Amendment Letter. As a result, the original application will be examined with the originally filed total of 14 claims.

Double Patenting

2. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in

Art Unit: 2631

scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

3. Claims 2, 3 and 10 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-3, respectively of prior U.S. Patent No. 6,198,777. This is a double patenting rejection. Although claims 2 and 3 of the instant application are not identical to claims 1 and 2, respectively, of prior U.S. Patent No. 6,198,777, they are not patentable distinct from each other because of variation of wordings.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The recitation of "the data bit rate" recited in claim 1, line 3 lacks antecedent basis;

The recitation of "the data-based selection control signals" recited in claim 2, line 10 lacks antecedent basis;

In claim 3, the recitation of "the processed clock signals" recited at line 8; the recitation of "said selected signal" recited at line 9 and the recitation of "the transmitter circuitry" recited at line 10 lack antecedent basis;

In claim 4, the recitation of "the generation of clock selector data signal" recited at lines 4-5; the recitation of "said data input interface encoder" recited at

line 5; the recitation of "the clock transition time-shifted shaped clock signals" recited at lines 6-7; the recitation of "the data interface output unit" recited at lines 7-8; and the recitation of "the transmission medium" recited at lines 9-10 lack antecedent basis;

In claim 5, the recitation of "said first or second clock shaped signals" recited at lines 6-7 and the recitation of "the transmission medium" recited at line 10 lack antecedent basis;

In claim 6, the recitation of "the data signal source" recited at line 5 and the recitation of "the interface of the subsequent signal processor" recited at lines 7-8 lack antecedent basis;

In claim 7, the recitation of "the clock modulated signal" recited at line 6 lacks antecedent basis;

In claim 8, the recitation of "the selection process of the shaped clock signal" recited at lines 2-3; the recitation of "the interface output unit means" recited at line 3; and the recitation of "the clock signal selection means" recited at lines 4-5 lack antecedent basis;

In claim 9, the recitation of "the clock modulated baseband signal" recited at lines 4-5; the recitation of "the transmission medium" recited at line 7; the recitation of "the received quadrature modulated signal" recited at line 8; and the recitation of "the clock modulated signal" recited at line 9 lack antecedent basis;

In claim 10, the recitation of "the processed clock signals" recited at line 8; the recitation of "said selected signal" recited at line 9; and the recitation of "the transmitter circuitry" recited at line 10 lack antecedent basis.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 4-9 and 11-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Feher (5,784,402; art cited by applicant).

Regarding claims 1, 4-9 and 11-14, Feher, as shown in figures 3A-3C, 8, 9, 12, 14, 15 and 17-21, teaches a communication system for transmitting and receiving shaped clock signal including clock generator (81), switches (102, 1605), data interface (figs. 17 and 21), cross-correlator (1901, 1902), processor (1603), and amplifier (fig. 18). See also column 7, lines 11-48; column 8, lines 46-67; column 10, lines 34-67; column 11, line 52 to column 12, line 27; and column 15, line 19 to column 16, line 60.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Reference Hirano et al (6,111,532) is cited because it is pertinent to apparatus and method for generating shaped clock signal.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DON N. VO whose telephone number is (571) 272-3018. The examiner can normally be reached on TUE - FRI (9:00-6:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MOHAMMAD GHAYOUR can be reached on (571) 272-3021. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



DON N. VO
Primary Examiner
Art Unit 2631